



**NAMIBIA UNIVERSITY
OF SCIENCE AND TECHNOLOGY**

**FACULTY OF HUMAN SCIENCES
DEPARTMENT OF SOCIAL SCIENCES**

QUALIFICATION: BACHELOR OF ACCOUNTING / BACHELOR OF ENTREPRENEURSHIP	
QUALIFICATION CODE: 07BOAC; 07BACC; 07BENT	LEVEL: 5
COURSE CODE: BLW512S	COURSE NAME: BUSINESS LAW
SESSION: JANUARY 2019	PAPER: THEORY AND CASE STUDIES
DURATION: 2 HOURS	MARKS: 100

SECOND OPPORTUNITY EXAMINATION	
EXAMINER(S)	Mariette Hanekom (Chief) Emmy Wabomba / Magda Saayman
MODERATOR:	Johanna Nghishekwa

INSTRUCTIONS
<ol style="list-style-type: none">1. The paper has SIX questions.2. ALL the questions are compulsory.3. Read carefully before answering.4. Write clearly and neatly.5. Number the answers clearly and according the structure in the examination question paper.6. Candidates will be penalised for incorrect spelling and illegible handwriting.

PERMISSABLE MATERIAL

None

THIS QUESTION PAPER CONSISTS OF 5 PAGES (Including this front page)

QUESTION 1

Indicate whether the following statements are true or false. You need not motivate your answer.

- 1.1 A partnership comes into existence the moment the partners contribute to the partnership fund.
- 1.2 Assets contributed to the partnership are co-owned by the partnership and the partners.
- 1.3 Petrus and his friends wish to start an animal rescue shelter for their suburb. They can form a partnership.
- 1.4 Joe buys a second-hand motor vehicle from Best Buys Cars, but leaves the car with them for new tyres to be fitted. The form of delivery is known as *constitutum possessorium*.
- 1.5 The fiduciary relationship between partners will come to an end the moment a partnership is dissolved.
- 1.6 A, B and C are partners in a business providing transport to and from Windhoek International Airport. One evening, on his way home in a vehicle belonging to the partnership, A is involved in an accident and D is injured. A, B and C will be liable, because they are co-owners of the vehicle.
- 1.7 The Credit Agreements Act will not apply when the agreement is concluded for less than 6 months.
- 1.8 Patrimonial gain for each partner implies that the partners must receive equal shares of the profit.
- 1.9 When the credit receiver has failed to pay his instalment and the credit grantor has regained possession of the article without a court order, the credit grantor has to grant the credit receiver a period of 60 days in which he can pay the monies in arrears and regain possession of the article.
- 1.10 A notice of dissolution by one of the partners in a partnership will dissolve the partnership only if the notice is reasonable.
- 1.11 Section 13 of the Credit Agreements Act of 75 of 1980 is available to the credit receiver when the contract was signed at a place other than the business premises of the credit grantor or as a result of the initiation of the credit grantor.
- 1.12 The seller is exempted from liability for latent defects in a lay-by agreement.
- 1.13 The first delivery of a Bill of Exchange, complete in form, to a person who takes it as a holder is known as issue.

- 1.14 A person who negotiates a Bill of Exchange by signing and delivering it is known as the indorser.
- 1.15 The type of partnership where the liability of one or more of the partners is limited to an agreed amount is known as a silent partnership.
- 1.16 The duty of partners to avoid negligence in the conduct of partnership business is known as the fiduciary duty of care and skill.
- 1.17 A sole proprietor is jointly and severally liable for the debts of the business.
- 1.18 If a partnership has suffered a loss as a result of the negligence of a partner, the aggrieved partners can institute action to recover the loss from that partner.
- 1.19 An individual partner cannot be sued for a partnership debt while the partnership is in existence.
- 1.20 Louise, Maria and Doreen want to form a partnership. They must each agree to contribute a sum of money to the partnership.

(Two marks each) [40]

QUESTION 2

Briefly answer the following questions:

- 2.1 With specific reference to credit agreements, what is the difference between a suspensive condition and a resolutive condition?
(4)
 - 2.2 List the essentialia for a valid contract of purchase and sale. (3)
 - 2.3 Will the purchaser always become the owner of the thing sold? Motivate your answer. (3)
 - 2.4 "The payee of a bill of exchange can never be a holder in due course." Is this statement correct? Motivate your answer. (3)
 - 2.5 In terms of the law of purchase and sale, what is the meaning of the term "delivery"? (2)
- [15]**

QUESTION 3 FOLLOWS ON THE NEXT PAGE

QUESTION 3

In each of the following instances, indicate whether a valid bill of exchange has come into existence. Motivate your answers.

Note: No marks will be awarded for valid / not valid without a correct motivation.

- 3.1 Ricardo addresses a written document to Jevan stating “please pay Martha N\$500 on 1 October 2017”. He signs it and delivers it to Martha.
- 3.2 Ricardo addresses a written document to Jevan stating “Pay Martha N\$500 three days after she passes Business Law”. He signs it and delivers it to Martha.
- 3.3 Ricardo addresses a written document to Jevan stating “Pay Martha N\$500 on 1 October 2017”. He puts his thumbprint on it and delivers it to Martha.
- 3.4 Ricardo addresses a written document to Jevan stating “Pay Martha N\$500 on 1 October 2017”. He signs it and locks it in his cupboard.
- 3.5 Ricardo addresses a written document to Jevan stating “Pay Martha N\$500 when it rains again in Windhoek”. He signs it and delivers it to Martha.

Two marks each [10]

QUESTION 4

Jono leases an apartment in Windhoek North from Hannah. To alleviate his boredom when his friends decide to stop partying and start studying he decides to buy a big screen TV from The Television Shop. He enters into an Instalment Sale Agreement in terms of the Credit Agreement Act 75 of 1980, as amended.

Answer the following questions, motivating your answers as required.

- 4.1 Two days after his purchase Jono realises that he cannot afford the TV and decides to return it to the shop in terms of Section 13 of the Credit Agreements Act 75 of 1980. Can he do this? (4)
- 4.2 Eventually Jono can no longer pay his rent, and Hannah attaches his movable goods, including the TV, to recover the arrears. Can Hannah do this? (6)
- 4.3 Susi buys the TV at a sale in execution. A week later she is contacted by a representative of The Television Shop who informs her that the TV was subject to an installment sale agreement and belonged to them, and not to Jono, when it was attached. The representative demands that Susi return the TV. Advise Susi. (5)

[15]

QUESTION 5 FOLLOWS ON THE NEXT PAGE

QUESTION 5

Melody buys three cows from Martha for N\$1000 each. All three cows are about to calve and they agree that it would not be safe to transport the cows and that delivery of the cows would only take place after the calves have been born. Unfortunately two of the cows die while calving. The third cow and all three the calves are healthy. A dispute arises between Melody and Martha about who is entitled to the calves and whether Melody must pay for all three cows. Advise them.

[10]

QUESTION 6

Gero and Susan form a partnership to prospect for and to acquire rights to platinum on a certain farm. They agree that all contracts in excess of N\$500 000 require the consent of both partners.

Six months later Gero buys second-hand mining equipment at a price of N\$600 000, without having consulted Susan. Susan is so angry that they decide to terminate their relationship. The purchase price of the second-hand mining equipment remains unpaid. Susan then finds out that platinum had been discovered on a neighbouring farm and, without informing Susan, Gero had obtained the rights to this platinum for himself.

Answer the following questions, motivating your answers as required:

- 6.1 Can the seller of the mining equipment hold the partnership liable for the purchase price? (6)
- 6.2 Was Gero permitted to obtain the rights to the platinum on the neighbouring farm for himself? (4)

Note: The above answers are merely guidelines and examiners should use their discretion in allocating marks)

[10]

TOTAL: 100 MARKS